

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION**

5:06cv88

AUTO-OWNERS INSURANCE COMPANY,

Plaintiff,

Vs.

**NORTHWESTERN HOUSING ENTERPRISES,
INC.; EDWARD G. FOWLER; JONATHAN D.
PRESNELL and ELIZABETH P. PRESNELL;
DONALD W. BARTON and LAURIE A.
CIMINO; JASON E. JARRELL and SHIRON
L. JARRELL; MARK M. ILLICH and
BRANDY ILLICH; JOHN C. WATSON and
JILL M. WATSON; SARA V. COOK;
MICHAEL D. FORRESTER and AMY L.
FORRESTER; WALTER D. ANDERSON and
JENNIFER L. ANDERSON and ELIZABETH
A. MURRAY; DARREN R. FAULKNER and
JAMIE L. FAULKNER; and CHRISTOPHER
H. ELLER,**

Defendants, and

**NORTHWESTERN HOUSING ENTERPRISES,
INC., EDWARD G. FOWLER,**

**Defendants and
Third-Party Plaintiffs,**

Vs.

**ST. PAUL TRAVELERS; and ST. PAUL FIRE
AND MARINE INSURANCE COMPANY,**

Third-Party Defendants.

JUDGMENT

THIS MATTER having come before the court in accordance with 28, United

States Code, Section 636(c), and on third-party defendants St. Paul Travelers' and St. Paul Fire and Marine Insurance Company's Motion for Summary Judgment and Auto-Owners Insurance Company's Motion for Summary Judgment, and having considered all the materials submitted and conducted a hearing, and the court having issued its Memorandum of Decision filed simultaneously herewith,

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED

- (1) that third-party defendants St. Paul Travelers' and St. Paul Fire and Marine Insurance Company's Motion for Summary Judgment (#36) is **GRANTED**, and the third-party Complaint asserted against third-party defendants St. Paul Travelers and St. Paul Fire and Marine Insurance Company is otherwise **DISMISSED** with prejudice; and
- (2) Auto-Owners Insurance Company's Motion for Summary Judgment (#40) is **GRANTED**, and a **DECLARATORY JUDGMENT** is entered in favor of **AUTO-OWNERS INSURANCE COMPANY** and against defendants **NORTHWESTERN HOUSING ENTERPRISES, INC.**, and **EDWARD G. FOWLER**, declaring as follows: *it appearing that Auto-Owners does not seek summary judgment or a declaratory judgment as to the personal property claims or personal injury claims of the Presnell litigants or its duty to defend, the court declares that **AUTO-OWNERS INSURANCE COMPANY** has no duty to indemnify defendants **NORTHWESTERN HOUSING ENTERPRISES, INC.**, and **EDWARD G. FOWLER** for damage to the Presnell litigants'*

homes or lots as alleged and asserted in the Watauga County action.

Signed: March 31, 2008

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

